

REMARKS

Reconsideration of the captioned application is respectfully requested.

This Amendment is being filed with a request for a one month extension of time, an information disclosure statement, as well as a Request for Continued Examination ("RCE") in lieu of filing an appeal brief in response to the Notice of Appeal filed on 22 October 2003.

The Office Action rejected claims 18 – 22 and 25 – 37 as being unpatentable under United States Patent No. 6,524,626 to Chen ("Chen"). Claims 1 – 7, 23, and 24 were cancelled. New claims 38 - 45 were added. Support for claims 38 - 35 may be found in the Specification of the parent application as originally filed at, for example, page 3, lines 21 – 25, page 6, lines 16 – 21, page 7, lines 4 – 13, and page 15, lines 3 – 5, as well as in the above-referenced application on, for example, page 4, lines 14 – 18 and 22-25, page 4, line 33 to page 5, line 3, and page 5, line 32 – page 6, line 5, as such these amendments do not introduce new matter into the application. Claims 18 – 22 and 25 - 45 remain pending in this application after entry of this response.

Applicant wishes to point out to the Examiner that, in a continuation application having United States Serial No. 10/218,774 (JBP 594), claims 1, 2, and 13 were rejected under 35 USC §102(b) as being anticipated by United States Patent No. 4,597,885 to Berry, et al. ("Berry"); claims 1 – 5 and 19 were rejected under 35 USC §102(e) as being anticipated by United States Patent

No. 5,891,427 to Mettler ("Mettler"); claims 1- 5, 9 – 11, 19, and 23 – 25 were rejected under 35 USC §103(a) as being unpatentable over Mettler; and claims 6 – 8, 12, 14, and 26 – 30 were objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form.

Claims 18 – 22 and 25 – 37 stand rejected as being unpatentable under United States Patent No. 6,524,626 to Chen ("Chen"). Applicants disagree for the reasons that follow.

Chen is directed to a ginseng berry extract-containing composition that may additionally contain ingredients such as orange or rose. See Chen, column 4 to column 17. However, Chen neither discloses nor suggests several of the elements of the invention as presently claimed: a) "A method of soothing a mammal"; b) a "personal care composition [that] is capable of reducing the cortisol level of the mammal by about 0.1 to about 75 % and/or increasing the sIgA level of the mammal by about 10% to about 150%"; or c) the incorporation of such a personal care composition in "a method of soothing a mammal," let alone recognize the important of achieving a reduction of "the cortisol level of the mammal by about 0.1 to about 75 % and/or [an increase in] the sIgA level of the mammal by about 10% to about 150%" when desiring to soothe a mammal.

In view of the above, Applicants respectfully submits that the rejection of claims 18 – 22 and 25 – 37 as being unpatentable under 35 USC §103 over Chen has been overcome and should be withdrawn.

Conclusion

It is submitted that the foregoing amendments and remarks place the case in condition for allowance. A notice to that effect is earnestly solicited.

Respectfully submitted,

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